



ENVIRONMENTAL QUALITY BOARD

Minnesota Environmental Quality Board

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

Proposed Permanent Rules Governing Environmental Review of Electric Power Generating Plants and High Voltage Transmission Lines in Proceedings before the Public Utilities Commission, *Minnesota Rules* parts 4410.7010 to 4400.7070, and Technical Amendments to the Power Plant Siting Rules, *Minnesota Rules*, Chapter 4400, and Repeal of *Minnesota Rules* parts 4410.7000 to 4410.7500.

Introduction. The Minnesota Environmental Quality Board (MEQB) intends to adopt amendments to existing rules and repeal certain rules without a public hearing following the procedures set forth in the Administrative Procedure Act, *Minnesota Statutes*, sections 14.22 to 14.28, and rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2300 to 1400.2310. You may submit written comments on the proposed rule amendments and may also submit a written request that a hearing be held on the rules until June 23, 2003.

Agency Contact Person. Comments or questions on the rule amendments and written requests for a public hearing on the rules must be submitted to the agency contact person. The agency contact person is: Alan Mitchell, Minnesota Environmental Quality Board, 300 Centennial Building, 658 Cedar Street, St. Paul, MN 55155-0001, **phone:** 651-296-3714 or 1-800-657-3784; **fax:** 651-296-3698; **email:** alan.mitchell@state.mn.us. **TTY** users may call Minnesota Planning at 1-800-627-3529.

Subject of Rules and Statutory Authority. The proposed rule amendments establish requirements for conducting environmental review of proposed large electric generating power plants and high voltage transmission lines at the time such projects are before the Minnesota Public Utilities Commission for a determination of need. The statutory authority to adopt the rules is *Minnesota Statutes*, section 116D.04, subd. 4a and 5a. These amendments will replace existing rules parts 4410.7000 to 4410.7500, which are proposed to be repealed. In addition, the EQB intends to make three minor technical amendments in the power plant siting rules in *Minnesota Rules* chapter 4400 to correct some grammatical errors and to cite the new rule numbers.

A copy of the proposed rules is published in Volume 27 of the *State Register*, Issue 47, Monday, May 19, 2003. A free copy of the rules is available upon request from the agency contact person listed above or available on the MEQB web site at: <http://www.eqb.state.mn.us/index.html>. The proposed amendments require the Environmental Quality Board to prepare an Environmental Report on every proposed large energy facility at the time the project proposer applies to the Minnesota Public Utilities Commission for a certificate of need or other need certification. Large energy facilities are generally power plants with a capacity of 50 megawatts or more and transmission lines in excess of 100 kilovolts.

The rules establish a procedure for the EQB to follow in determining what matters will be considered as part of the environmental review. The procedures require the EQB to hold a public meeting to answer questions about the project and to provide an opportunity for the public to comment about the alternatives and possible impacts to evaluate in the Environmental Report. The proposed rules require the EQB to complete the Environmental Report within four months of commencement of the process. Upon completion of the Report, the EQB will provide a copy to the PUC for its consideration in making a final decision on the need for the project. The proposed rules recognize that in the event the applicant for a certificate of need has also applied to the EQB for a permit for a specific site or route, the EQB could elect to combine environmental review into one process. The rules also provide that the applicant for the certificate of need must pay the reasonable fees incurred by the EQB in conducting environmental review.

Comments. You have until 4:30 p.m. on Monday, June 23, 2003, to submit written comments in support of or in opposition to the proposed rule amendments and any part or subpart of the rules. Your comments must be in writing and received by the agency contact person by the due date. Comment is encouraged. Your comment should identify the portion of the proposed rules addressed and the reason for the comment. You are encouraged to propose any change desired. Any comments that you would like to make on the legality of the proposed rules must also be made during this comment period.

Request for a Hearing. In addition to submitting comments, you may also request that a hearing be held on the rules. Your request for a public hearing must be in writing and must be received by the agency contact person by 4:30 p.m. on June 23, 2003.

Your written request for a public hearing must include your name and address. You must identify the portion of the proposed rules to which you object or state that you oppose the entire set of rules. Any request that does not comply with these requirements is not valid and cannot be counted by the agency when determining whether a public hearing must be held. You are also encouraged to state the reason for the request and any changes you want made to the proposed rules.

Withdrawal of Requests. If 25 or more persons submit a valid written request for a hearing, a public hearing will be held unless a sufficient number withdraw their requests in writing. If enough requests for hearing are withdrawn to reduce the number below 25, the agency must give written notice of this to all persons who requested a hearing, explain the actions the agency took to effect the withdrawal, and ask for written comments on this action. If a public hearing is required, the agency will follow the procedures in *Minnesota Statutes*, sections 14.131 to 14.20.

Alternative Format. Upon request, this Notice can be made available in an alternative format, such as large print, Braille, or cassette tape. To make such a request, please contact the agency contact person at the address or telephone number listed above.

Modifications. The proposed rules may be modified as a result of public comment. The modifications must be supported by comments and information submitted to the agency, and the adopted rules may not be substantially different than these proposed rules. If the proposed rules affect you in any way, you are encouraged to participate in the rulemaking process.

Statement of Need and Reasonableness. A statement of need and reasonableness is now available from the agency contact person. This statement contains a summary of the justification for the proposed rules, including a description of who will be affected by the proposed rules and an estimate of the probable cost of the proposed rules. Copies of the statement may be obtained at the cost of reproduction from the agency, or downloaded from the MEQB web page identified above.

Public Meeting. The Environmental Quality Board has scheduled a public meeting to provide interested persons an opportunity to ask questions about the proposed amendments. EQB staff will be available to address all matters relating to the proposed amendments. The meeting will be held in Room 302 of the Centennial Office Building, 658 Cedar Street, St. Paul, Minnesota 55101 on Wednesday May 28, 2003, at both 1:30 p.m. and again at 7:00 p.m. Persons attending the meeting must check in with the security desk on the Ground Floor of the Centennial Building before proceeding to the third floor.

Adoption and Review of Rules. If no hearing is required, the agency may adopt the rules after the end of the comment period. The rules and supporting documents will then be submitted to the Office of Administrative Hearings for review for legality. You may ask to be notified of the date the rules are submitted to the office. If you want to be so notified, or want to receive a copy of the adopted rules, or want to register with the agency to receive notice of future rule proceedings, submit your request to the agency contact person listed above.

Robert A. Schroeder, Chair
Minnesota Environmental Quality Board